

OPINION
44-63

April 19, 1944 (OPINION)

LICENSES

RE: Liquor

This will acknowledge receipt of your letter of April 10, 1944, regarding the issuance of wholesale liquor licenses by cities. You state that the city of Grand Forks issues a wholesale license for five hundred dollars for the sale only of strong beer and ale, and a general wholesale liquor license for one thousand dollars which permits the sale of all kinds of liquor and strong beer.

In reply I wish to state that there is nothing in the North Dakota state laws which gives municipalities the right to issue the two licenses referred to in your letter. The North Dakota state law clearly provides that cities or villages in this state may issue wholesale liquor licenses in the sum of not less than five hundred dollars, or more than one thousand dollars, the fee to be determined by the governing body of cities and villages.

Section 6 of chapter 259 of the Session Laws of the state of North Dakota for 1937 reads in full as follows:

"Before any person residing in the state of North Dakota shall engage in the sale at wholesale of alcohol and alcoholic beverages as defined herein, he shall first procure from the city or village where said wholesale business is to be conducted a license so to do, which shall be in the sum of not less than five hundred dollars, or more than one thousand dollars, to be determined by said governing body of said city or village, provided that fee therefor shall be the same to all licensees within each city or village, respectively; provided further, that the wholesale business as used herein shall mean, for the purpose of determining where the same shall be issued, the place where the home office and principal warehouse is kept. Provided that if warehouses or offices are maintained in more than one city a separate license shall be had for each such warehouse."

You will note that the law specifically provides that the license fee to wholesalers shall be the same to all licensees of any city or village. This provision means only one thing and that is that no municipal body can discriminate in the issuance of wholesale licenses by charging a fee of one thousand dollars in one instance, and a fee of five hundred dollars for the issuance of another license to some other wholesaler.

In my opinion, strong beer and ale are to be governed by the provisions of the said chapter 259 of the 1937 Session Laws, and all wholesale licenses issued must conform to the provisions of this Act.

ALVIN C. STRUTZ
Attorney General